IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

Crl.MC.No. 2334 of 2007()

CC.43/2007 of Judicial First Class Magistrate Court, Kochi

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PETITIONERS/ACCUSED 2 AND 3:

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1. DR. V.K.SIVASANKARAN, S/O. KRISHNAN,
   AGED 58 YEARS, 'SREELAKAM', MUTHUVATTOOR,
   GURUVAYOOR, CHAVAKKAD TALUK, THRISSUR DISTRICT.

2. RITA SIVASANKARAN,
   W/O. DR.V.K.SIVASANKARAN, AGED 53 YEARS,
   'SREELAKAM', MUTHUVATTOOR, GURUVAYOOR,
   CHAVAKKAD TALUK, THRISSUR DISTRICT.

BY ADV. SRI.P.V.CHANDRA MOHAN

RESPONDENTS/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY S.I. OF POLICE, THOPPUMPADY POLICE
STATION, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2334 of 2007

Dated this the 20th day of July 2007

O R D E R

The petitioners face allegations under Section 498A I.P.C. Cognizance has already taken. The petitioners have appeared before the learned Magistrate and have been enlarged on bail. On one day of posting that is 4/6/2007, they were ill and did not appear before the learned Magistrate. The learned Magistrate has issued a non-bailable warrant of arrest against the petitioners. The said warrant is now chasing the petitioners. The petitioners submit that they are absolutely innocent. They are willing to surrender before the learned Magistrate and seek bail but they apprehend that their application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. They, therefore, pray that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioners on bail when they appear and apply for bail.

2. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the

circumstances under which they could not earlier appear before the learned Magistrate.

3. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself. The warrant of arrest issued against the petitioners shall not be executed till 24/7/2007 i.e the next date of posting.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007